



Not-For-Profit Directors and Officers Insurance— With Employment Practices Liability Responses To Frequently Asked Questions

1. Why Does a Not-For-Profit Organization need Directors and Officers (D&O) Insurance?

Not-For-Profit entities are subject to many of the same management liability exposures as private and public companies. Unfortunately, many do not buy insurance coverage to protect themselves. They assume being non-profit gives them immunity from liability. This is a dangerous misconception, since litigation brought against a not-for-profit organization could have a significant adverse effect on the personal assets of the firm's directors and officers. Recruiting & keeping a high caliber of directors and officers requires Not-For-Profit D&O as an essential part of the entities insurance program.

2. Why would a Not-For-Profit organization need employment practices liability protection?

Most management liability suits brought against not-for-profit organizations come from current or former employees. Part-time workers, third party vendors and volunteers can also bring discrimination allegations against the organization. Built-in entity coverage helps safeguard cash flow. It also unifies the interests of the entity and those individuals named in the suit. This creates an important unified defense strategy when a claim occurs. Even if groundless, all allegations must be defended promptly. Failure to defend the organization quickly could be interpreted as an admission of guilt and lead to prolonged litigation. Legal expenses alone can have a devastating impact on the organization.

3. Doesn't the general liability policy provide sufficient coverage for the board of directors?

Most general liability policies cover only claims for bodily injury and property damage. Its scope of coverage does not include employment-related actions and other types of management liability most usually filed against not-for-profit organizations.

3. Can an organization's indemnification provisions adequately protect its officers and directors against loss?

An organization simply cannot shield its directors and officers from exposure to personal liability solely by virtue of its indemnification provisions. Entities that rely on government grants may not be permitted to use those funds for indemnification. If indemnification provisions are unclear on issues such as the advancement of defense costs, the result may be a significant financial hardship on directors and officers. Finally, while many non-profit organizations may be willing to indemnify, legal costs alone may exceed their capacity to do so.

5. Who can be included as an insured under the Not-For-Profit D&O Insurance through Rockwood Programs, Inc?

Included under the policy are:

- The Insured Organization
- Committee Members
- Volunteers
- Directors
- Esposal Coverage
- Employees
- Officers

6. Why do volunteers need to be covered? Don't volunteer laws protect them?

No. Many states have enacted laws pertaining to non-profit legal liability. Few provide adequate protection. Deficiencies include:

- Protection only applies to a volunteer's personal liability; the organization is still at risk.
- The laws do not limit liability under federal statutes, such as those governing civil rights, labor and taxation.
- Claims can still be filed, requiring the mounting of a legal defense. These costs will be incurred regardless of who wins.

7. Will the Not-For-Profit D&O Insurance policy cover a “for profit” subsidiary?

Coverage can be extended to include a “for-profit” subsidiary subject to underwriting review and approval. Contact Rockwood for details.

8. What is a “duty to defend” policy?

The duty to defend policy requires the insurance company to assume the defense of any covered claim. It uses experienced defense counsel as part of its defense obligation and pays the associated expenses. An alternative approach often referred to as indemnity coverage, imposes no defense obligation on the insurance company. It requires the insured organization to defend the claim although the insurer may still advance payments for defense costs and pay losses on the insured’s behalf. The policy through Rockwood is a duty to defend policy.

9. What does “claims-made” mean?

The Not-For-Profit D&O Insurance policy through Rockwood Programs, Inc. is a claims-made policy. It covers claims first brought against the insured and reported to the insurer within the policy period (subject to the applicable terms and conditions of the policy), regardless of when the alleged wrongful act occurred.

NOT-FOR-PROFIT DIRECTORS & OFFICERS INSURANCE

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